19 48.

File No. B. General clauses/48

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

L.A. Bill No V Of 1948

A Bill to amend the Bombay

General clauses Act, 1904

File No. B General Clauses / 48

td. Sectt. Slip 24 B'e.

559-13

C O N T E N T S.

Legal Department File No. B. General Clauses/48

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K.N.P.
25/5
5.C.

In the General Clauses Act of 1897 'Regulation' was first defined as follows :

"Regulation" shall mean "Regulation made under the Government of India Act, 1870."

The Repealing and Amending Act, 1917, added to this definition the words "or the Government of India Act, 1915." The Repealing and Amending Act, 1928, further added the words "or the Government of India Act" and lastly the Adaptation Order of 1937 added the words "or under section 95 or section 96 of the Government of India Act, 1935." The final definition of 'Regulation' in the General Clauses Act, 1897, reads as follows :

"'Regulation' shall mean a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act 1915 / or the Government of India Act or / under section 95 or section 96 of the Government of India Act, 1935."

2. The Bombay General Clauses Act of 1886 contained no definition of 'Regulation'. The Bombay General Clauses Act of 1904 which repealed the Act of 1886 introduced for the first time the following definition of enactment and 'Regulation,

"enactment" shall include a Regulation as hereinafter defined and any regulation of the Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid . "Regulation" shall mean a Regulation made under the Government of India Act, 1870." The object of the definition of "Regulation" was to distinguish Regulations made under the Government of India Act, 1870 (corresponding to section 79 of the Government of India Act) from (1) rules made under the powers given by an Act which are sometimes called "regulations" and (2 ; the old Bengal Madras and

Bombay Regulations made prior to 1834.

3. Under the powers conferred by the Government of India Act, 1870 a large number of Regulations were made for the wider parts of Bengal, Bombay, the North-western Provinces, the Punjab and Burma etc. So far as the then Bombay Province was concerned Regulations for the districts bordering on the frontier of Sind, namely the Sindh Frontier Regulation 1872 and the Sind namely tFrontier Regulation 1892 were made. These Regulations were included in the Bombay Code Vol. I published by the Government of India. In this connection attention is invited to the remarks in the annotated edition of the General Clauses Act at p. 125 where it is said that the Regulations applicable to the territories under the various Local Governments are collected in the local Codes published by the Legislative Department of the Government of India or the Local Government. In the revised edition of the Bombay Code. (Fifth edition) the Sind Frontier Regulations are now rightly included. The Regulations applicable to the Province of Bombay and in force now are included in Vol . I of the Bombay Code but these are not made under the Government of India Act, 1870. It would thus appear that there are no Regulations made under the Government of India Act, 1870 which are now in force in the Province of Bombay, The definition of 'Regulation' in the Bombay General Clauses Act of 1904 refers to the Government of India Act of 1870. It was not later on amended on the lines of the definition ofthat term in the General Clauses Act, 1897 presumably because there were no Regulations made for the Province of Bombay under the later Government of India Acts . The Government of India Act of 1935 gives power to the Governor of Bombay to make regulations under section 92 for the partially excluded areas and thatis why the footnote

to ~~make~~ regulations under section 92 for the ~~partially excluded areas and~~ that is why the footnote to the definition of Regulation in the Bombay Act, 1~~935~~". says "see now the Government of India Act, 1935"

4. In view of the above my suggestions are

(1) Since there are no Regulations made under the Government of India Act, ~~1870~~1870 now in force in the Province of Bombay the definition of "Regulation" in the Bombay General Clauses Act, 1904, may be deleted.

(2) In the definition of "enactment" in the Act the words and brackets "a Regulation (as hereinafter defined) and may be deleted.

(3) No reference may be made under section 92 to "Regulation."

As regards Regulations made under section 92 of the Government of India Act, 1935, section 31 of the Bombay General Clauses Act, 1904 which has been inserted by the Adaptation Order of 1937 will do the necessary service.

5. I may here point out that the Madras Government have long ago amended their General Clauses Act of 1891 on the lines now propsed See section 8A of the Madras General Clauses Act, 1891. As in section 8A of the Madras Act we may also use the expression "text of any previous enactment" in place of the Expression "text of any Act" used in the proposed section 7A.

S.L. Chaudhari, 14/10

Dss. I agree the draft bill may be prepard on the lines Suggested in para 4 of the above -

K.M.P. 25/5 4.C.

S.B.Palekar 21/4

P.M.Lad. 25/11/47.

No. 2477

7

Legal Department,

Bombay Castle, 12th March 1948.

From

P.M.Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay,
Legal Department.

To

The Private Secretary to the Governor
of Bombay.

Subject :- A bill to amend the Bombay General Clauses Act, 1904.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for the assent of His Excellency the Governor the authentice copy of the Bill to amend the Bombay General Clauses Act, 1904 which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 18th February 1948 and on the 3rd March 1948, respectively.

2. The subject-matter of the Bill falls generally under all entries in both the Lists II and III in the Seventh Schedule to the Government of India Act, 1935, to which the subject-matter of Acts which may be affected by the Bill relates. As the provisions of the Bill are not repugnant to the provisions of any existing law relating to any matter in the Concurrent Legislative List, it is not be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of the items Nos. 2 1, 2 and 4 and 2 copies of item No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 18th February 1948 and of the Bombay Legislative Council dated the 3rd March 1948.	

I have the honour to be,
Sir,
Your most obedient servant,

Sd.-

P.M.Lad. 2/3

O.C. Secretary to the Government o
Bombay, Legal Department.

a.N.P.
25/5
4.C.

No. P.S.G.- 13of -11-

Office of the Private Secretary to the Governo:
Government House,
Bombay, 15th March 1948.

From

L.N. Nadkarni, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to Governm—
Legal Department

Subject: The Bombay General Cla-uses (Amendment)
Bill, 1948.

...

Sir,

With reference to your letter No. 2477, dated the 12th March 1948, I am directed to return herewith, with His Excellen the Governor's assent signfied thereon, the copy of the Bombay General Clauses (Amendment) Bill, 1948.

Your obedient servant

Sd.-

Private Secretary to the Governor of Bombay.

K.N.P.
25/5
4.C.

Bills.

A Bill to amend the Bombay General Clauses Act, 1904.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 1123
Bombay Cable, 2nd February 1948.

RESOLUTION:- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 2nd February 1948, as Bill No. V of 1948.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devanagari Scripts) and the translations should be published in the Bombay Government Gazette, on the 9th February 1948.

3. The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

S.L. Chaudhari,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the Statement of Objects and Reasons may be forwarded to the Bombay Legislature Department for distribution to the members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department).

*The Oriental Translator to Government
The Bombay Legislature Department
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat Bombay.
} with a copy of the Bill and S.O. R.

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* with five extra copies of the Bill.

K.M.P.
25/3
4.C.

A-cts

Publication of the Bombay General Clauses (Amendment) Act. 1948.

GOVERNMENT OF BOMBAY,
Legal Department ,
Resolution No. 2677.
Bombay Castle, 17th March 1948.

Letter to the Private Secretary to the Governor , No. 2477, dated the 12th March 1948.

Letter from the Private Secretary to the Governor No. R.S.G.- 1301, dated the 15th March 1948. -

"With reference to yourm letter No. 2477, dated the 12th March 1948, I am directed to retum herewith, with His Excellency the Governor's assent Signified thereon, the copy of the Bombay General Clauses (Amendment) Bill, 1948."

RESOLUTION. - The law should be published as Bombay Act No. V of 1948, in the Bombay Government Gazette dated the 18th March 1948.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi Hindustani (in Urdu and Devanagari scripts) and the translations should be published in the Bombay Government Gazette.

By order of the Governor of Bombay,

S. L. Chaudhari,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay, (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),
*The Oriental Translator to Government, The Bombay Legislature Department, The Director of Publicity, Bombay, The Enquiry Officer for the Secretariat, Bombay. with a copy of the Act.

*With five extra copies of the Act.

K.N.P.
25/5

4-C.

Bom Act No V of 1948

~~L. A. BILL No. V OF 1948.~~

A Bill to amend the Bombay General Clauses Act, 1904.

(As read for the third time and passed by the Legislative Assembly on the 18th February 1948.)

(As read for the third time and passed by the Legislative Council on the 3rd March 1948.)

WHEREAS it is expedient to amend the Bombay General Clauses Act, 1904, for the purposes hereinafter appearing; It is hereby enacted as follows :— Bom. I of 1904.

1. This Act may be called the Bombay General Clauses (Amendment) Act, 1948. Short title.

2. In section 3 of the Bombay General Clauses Act, 1904 (hereinafter called the said Act),— Bom. I of 1904. Amendment of section 3 of Bom. I of 1904.

(*1*) in clause (17), the words and brackets "a Regulation (as hereinafter defined) and" shall be deleted; and

(*2*) clause (38) shall be deleted.

3. After section 7 of the said Act the following new section shall be inserted, namely :— Insertion of new section 7A in Bom. I of 1904.

"7A. Where any Bombay Act made after the commencement of this Act repeals any enactment by which the text of any previous enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal." Repeal of enactment making textual amendment in any Act.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL NO. V OF 1948.]

(As read for the third time and passed by the Legislative Assembly on the 18th February 1948.)

(As read for the third time and passed by the Legislative Council on the 3rd March 1948.)

A Bill to amend the Bombay General Clauses Act, 1904.

[Mr. D. N. DESAI, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.